

§ 1415.18

the land to the extent that such restoration or rehabilitation is above and beyond that required by the GRP conservation plan and restoration agreement. Any additional restoration must be consistent with the purposes of the easement.

(d) A private organization, State, or other Federal agency that seeks to administer and enforce an easement shall apply to the NRCS State Conservationist for approval. The State Conservationist shall consult with FSA State Executive Director prior to approval.

(e) For a private organization to administer and enforce an easement, the private organization must be organized as required by 28 U.S.C. 501(c)(3) of the Internal Revenue Code of 1986 or be controlled by an organization described in section 28 U.S.C. 509(a)(2) of that code. In addition, the private organization must provide evidence to USDA that it has:

(1) Relevant experience necessary to administer grassland and shrubland easements;

(2) A charter that describes the commitment of the private organization to conserving ranchland, agricultural land, or grassland for grazing and conservation purposes;

(3) The human and financial resources necessary, as determined by the Chief, NRCS, to effectuate the purposes of the charter; and

(4) Sufficient financial resources to carry out easement administrative and enforcement activities.

(f) If a private organization is terminated, withdraws from the agreement to administer the easement, or the landowner submits a request in writing to terminate such agreement, the USDA will assume the responsibility upon receiving such formal notice from the organization or the landowner. Subsequent agreements for easement management with other approved private, nonprofit organizations could be entered into at the request of the landowner with approval from the NRCS State Conservationist. If the owner and the new organization fail to notify the NRCS State Conservationist of the re-assignment within 30 days of termination, the easement shall revert to the control of NRCS.

7 CFR Ch. XIV (1-1-05 Edition)

§ 1415.18 Appeals.

(a) Applicants or participants may appeal decisions regarding this program in accordance with 7 CFR parts 11, 614, and 780.

(b) Before a person may seek judicial review of any action taken under this part, the person must exhaust all administrative appeal procedures set forth in paragraph (a) of this section.

§ 1415.19 Scheme or device.

(a) If it is determined by the Department that a participant has employed a scheme or device to defeat the purposes of this part, any part of any program payment otherwise due or paid such participant during the applicable period may be withheld or be required to be refunded with interest thereon, as determined appropriate by the Department.

(b) A scheme or device includes, but is not limited to, coercion, fraud, misrepresentation, depriving any other person of payments for cost-share practices or easements for the purpose of obtaining a payment to which a person would otherwise not be entitled.

(c) A participant who succeeds to the responsibilities under this part shall report in writing to the Department any interest of any kind in enrolled land that is held by a predecessor or any lender. A failure of full disclosure will be considered a scheme or device under this section.

§ 1415.20 Confidentiality.

Appraisals are considered confidential information and are not distributed. The regulations in this part provide that any appraisals, market analysis, or supporting documentation that may be used by USDA in determining property value are considered confidential information, and shall only be disclosed as determined at the sole discretion of FSA and NRCS in accordance with applicable law.